


Alfred C. Smith
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2005 MAR 24 PM 2:13

Docket No.: FIFRA-08-2004-0013

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:

Bruce Talbott
Talbott Farms, Inc.
3782 F 1/4 Road
Palisade, Colorado 81526,

Respondent.

CONSENT AGREEMENT

Complainant, United States Environmental Protection Agency, Region VIII ("EPA"), and Talbott Farms, Inc., ("Respondent"), by their undersigned representative(s), hereby consent and agree as follows:

I. PRELIMINARY STATEMENT

1. This matter is subject to 40 C.F.R. Part 22. This Consent Agreement is entered into by the parties for the purpose of concluding this matter, as provided in 40 C.F.R. section 22.18(b)(2).
2. The Complaint filed in this matter ("Complaint") alleges that Respondent failed to display specific pesticide application information as required by the Worker Protection Standard ("WPS"), codified in 40 C.F.R. part 170, in violation of Section 12(a)(2)(G) of FIFRA, 7 U.S.C. section 136j(a)(2)(G).

3. This Consent Agreement applies to and is binding upon EPA and upon Respondent, and Respondent's officers, directors, employees, agents, successors and assigns. Any change in the constitution of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Consent Agreement.
4. Respondent waives its right to a hearing to contest any issue of law or fact set forth in the Complaint.
5. Respondent admits the jurisdictional allegations contained in the Complaint and neither admits nor denies the specific factual allegations contained in the Complaint.

II. TERMS OF SETTLEMENT

6. The Complaint filed proposed a higher penalty assessment than the amount agreed to herein. For good cause shown, and for the purposes of settlement, Complainant agrees to reduce the penalty proposed in the Complaint to TWENTY-FOUR THOUSAND DOLLARS (\$24,000).
7. Respondent consents to the issuance of a Final Order which incorporates the terms and conditions of this Consent Agreement and to pay the civil penalty set forth in Paragraph 8 below.
8. Respondent agrees to pay a penalty in the amount of TWENTY-FOUR THOUSAND DOLLARS (\$24,000).

9. Respondent agrees to pay the above-stated penalty amount in EIGHT (8) installments of THREE THOUSAND DOLLARS (\$3,000). Respondent specifically agrees that should it be delinquent with any installment payment, interest due shall be calculated from the date of the issuance of the Final Order as set forth in paragraph 11. Such interest calculation is non-discretionary and required by federal government debt collection procedures.
10. The first penalty installment of \$3,000 is due on or before June 24, 2005. The second penalty installment of \$3,000 is due on or before September 24, 2005. The third penalty installment of \$3,000 is due on or before December 24, 2005. The fourth penalty installment of \$3,000 is due on or before March 24, 2006. The fifth penalty installment of \$3,000 is due on or before June 24, 2006. The sixth penalty installment of \$3,000 is due on or before September 24, 2006. The seventh penalty installment of \$3,000 is due on or before December 24, 2006. The eighth and final installment payment of \$3,000 is due March 24, 2006. Respondent shall make these **eight** installment payments by remitting a cashier's or certified check for the specified amount, payable to "Treasurer, United States of America," to:

Mellon Bank
EPA Region VIII
(Regional Hearing Clerk)
P.O. Box 360859M
Pittsburgh, PA. 15251

Each check shall reference the name and address of Respondent's facility and the EPA docket number (Docket No. FIFRA-08-2004-0013) of this action. A copy of the check shall be sent simultaneously to:

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region VIII
999 18th Street, Suite 300
Denver, Colorado 80202-2466

11. Respondent agrees and consents that if Respondent fails to pay the penalty amount on the due dates set forth in paragraph ten (10) above, any unpaid balance thereof, shall become due and owing by the Respondent, or EPA, in its sole discretion, may waive all or part of such acceleration. Furthermore, in the event timely payment is not made, consistent with Paragraph 10 above, interest on any unpaid balance shall accrue at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of fifteen dollars (\$15.00) shall be imposed after the first 30 days that the payment, or any portion thereof, is overdue, with an additional charge of fifteen dollars (\$15.00) imposed for each subsequent 30-day period until the payment due is made. In addition, a six percent

(6%) per annum penalty shall be applied on any principal amount not paid NINETY (90) days after the due dates set forth in Paragraph 10 above.

12. This Consent Agreement shall not relieve Respondent of their obligation to comply with all applicable provisions of federal, state or local law.

13. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the specific violations alleged in the Complaint filed in this matter.

14. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this Consent Agreement and to execute and legally bind that party to this Consent Agreement.

15. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this matter.

16. This Consent Agreement represents the entire agreement between the parties.

UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY, REGION 8,
OFFICE OF ENFORCEMENT, COMPLIANCE, AND
ENVIRONMENTAL JUSTICE,

Complainant.

Date: 3/24/05 By: Michael T. Risner
Michael T. Risner, Director
David J. Janik, Supervisory
Enforcement Attorney
Legal Enforcement Program

Date: 3/24/05 By: Elisabeth Evans
Elisabeth Evans, Director
Technical Enforcement Program

Date: 3/24/2005 By: Eduardo Quintana
Eduardo Quintana
Enforcement Attorney
Legal Enforcement Program
Phone: (303)-312-6924
FAX: (303) 312-6953

IN THE MATTER OF: Talbott Farms, Inc.,
Docket No.: FIFRA-08-2004-0013

Talbott Farms, Inc.,

Respondent.

Date:

3/24/05

By:

Bruce Talbott

NAME:

Harry Bruce Talbott for Talbott
Farms, Inc

TITLE:

Orchard Manager

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **BRUCE TALBOTT, TALBOTT FARMS, INC., DOCKET NO.: FIFRA-08-2004-0013** was filed with the Regional Hearing Clerk on March 24, 2005.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Eduardo Quintana, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on March 25, 2005, to:

B. Lawrence Theis, Esq.
Jennifer C. Miner, Esq.
Musgrave and Theis LLP
Republic Plaza Suite 4450
Denver, CO 80202

And pouch mailed to:

Honorable Spencer Nissen
Administrative Law Judge (1900L)
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

March 25, 2005



Tina Artemis
Regional Hearing Clerk

